

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #2	CCRB Case #: 202003790	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:00 PM	Location of Incident: DeKalb Avenue and Flatbush Avenue Extension	Precinct: 88	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 12:44 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 05/31/2020 12:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaron Husbands	04274	965752	079 PCT
2. POM Stenley Succes	20458	965552	PB CAD
3. LT Anthony Vassallo	00000	946361	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	
C. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	
D. An officer	Force: An officer struck § 87(2)(b) with a baton.	
E. An officer	Force: An officer used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint on May 31, 2020, via the call processing system.

On May 30, 2020, at approximately 11:00 p.m., § 87(2)(b) was in his car in front of the 7-11 just south of the intersection of DeKalb Avenue and Flatbush Avenue Extension in Brooklyn. § 87(2)(b)'s girlfriend, § 87(2)(b) arrived at the car saying she had just been groped and described the person who groped her. § 87(2)(b) drove north to DeKalb Avenue and exited the car. He noticed a large group of people walking quickly east on DeKalb Avenue but they were not doing anything of note. He approached an unidentified officer and said he had to report a crime, and the officer told him to "Get the hell out of here" (**Allegation A: Discourtesy- Word**, § 87(2)(g)). § 87(2)(b) explained what had happened to § 87(2)(b) and asked for the officer's "ID number," and the officer said, "Get out of here, you don't belong here (**Allegation B: Abuse of Authority- Refusal to Provide Shield Number, and Allegation C: Offensive Language- Race**, § 87(2)(g)). The officer then used his baton to push § 87(2)(b) on his chest, causing § 87(2)(b) to move back a few feet and lose his balance but not fall (**Allegation D: Force- Nightstick as club**, § 87(2)(g)), and **Allegation E: Force- Physical Force**, § 87(2)(g)). A few seconds later, the officer pushed him with the baton in the same way, but harder, causing § 87(2)(b) to fall onto his left wrist (**within Allegations D and E**). A large group of people then rushed toward the officers, so § 87(2)(b) left the scene quickly and went back to his car. He eventually went to the hospital and was diagnosed with a sprained wrist. § 87(2)(b) was not arrested or summonsed during this incident.

§ 87(2)(g)

Multiple requests to the NYPD for BWC footage at the date, time, and location across the four cases returned only one BWC video, taken by Lieutenant Anthony Vassallo, which was requested through related case #202005933; this footage does not show § 87(2)(b)'s incident (Board Review #30). Three BWC requests for this specific incident, and two requests through CCRB cases #202003881 and #202005933, were returned negative.

Findings and Recommendations

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) based upon race.

Allegation (D) Force: An officer struck § 87(2)(b) with a baton.

Allegation (E) Force: An officer used physical force against § 87(2)(b)

Known Facts and General Description

§ 87(2)(b) was interviewed via telephone on June 5, 2020, and June 11, 2020 (Board Review #01, #02, #03). Contact attempts to § 87(2)(b) were unsuccessful, and § 87(2)(b) stated during his interview that she was too far away from the incident to have witnessed it. Police Officer Aaron Husbands of the 79th Precinct was interviewed for related case #202003881 on September 17, 2020 (Board Review #24, #25). Lieutenant Vassallo of the 88th Precinct was interviewed on January 21, 2021 (Board Review #21, #22). Police Officer Stanley Succes of the 77th Precinct was interviewed on February 24, 2021 (Board Review #36, 37).

§ 87(2)(b) approached an approximately 6'2" tall uniformed black male in his 30s or 40s with a

large build, mustache and other facial hair, and wearing a body camera and a helmet with the numbers “2,” “5,” and “8” on it, along with about three other numbers. The officer was standing on the sidewalk on the Northeast corner of DeKalb Avenue and Flatbush Avenue Extension. § 87(2)(b) approached the officer with his arms up to appear unthreatening and told the officer he needed to report a crime. In response, the officer said, “Get the hell out of here.” § 87(2)(b) pointed toward the individual who groped his girlfriend and said that he needed an officer to respond. The officer said, “You don’t belong here, get out of here.” § 87(2)(b) then said, “Can I have your ID number?” The officer pushed § 87(2)(b)’s chest using his baton, causing § 87(2)(b) to move back a couple of feet into the street. The officer then pushed § 87(2)(b) again, but harder, causing § 87(2)(b) to fall onto his left wrist. Suddenly, approximately 100 people, including a large number of civilians and approximately 30 to 50 officers, rushed toward § 87(2)(b) and the officer. Given § 87(2)(b) description of his surroundings and the information from cases at the same time and place as this case, the investigation determined that this incident occurred during a protest.

Body-Worn Camera Footage and Other Video Evidence

The investigation submitted, through this case, three separate requests to the NYPD’s Legal Bureau for body-worn camera (BWC) footage pertaining to this incident, which were all returned with negative results (Board Review #04, #05, #06). Two additional requests were sent through related case #202005933, one of which was returned negative (Board Review #07), and the other resulting in one video from Lieutenant Anthony Vassallo of the 88th Precinct (Board Review #30). Another request through case #202003881 was also returned negative (Board Review #08).

The first request for this case, which included the date, time, and location of occurrence, was returned negative after a search was conducted for commands SRG, Disorder Control, and the 70th Precinct (the initial complaint listed an incorrect location, which was in a different precinct) (Board Review #04). The second request included the name of a specific officer that was initially believed to be involved in the incident, in addition to searches from the 88th Precinct, SRG, and CRC, although the NYPD conducted the search for the incorrect date (Board Review #05). The third request included 41 different precincts and another specific officer’s name but still was returned negative (Board Review #06).

The first request for case #202005933, which included the name of a specific officer known to be at the protest, the number of the summons he issued to a civilian, the 84th and 88th precincts and a wide time range also came back negative (Board Review #07). Lieutenant Vassallo’s BWC, which was re-requested after his interview and then received on February 23, 2021, did not show § 87(2)(b)’s incident (Board Review #30).

The one request for case #202003881, which included a search for officers from the 88th precinct, nearby Brooklyn SRG commands, the time, date, and location of the incident, and the complainant’s social media accounts came back negative (Board Review #08).

The investigation was unable to obtain any other relevant footage. Footage from social media and the New York Times that was allegedly taken at the same approximate time and location of the incident was reviewed, but no officers who matched the description of the subject officer, nor civilians who appeared to be § 87(2)(b) were seen. A request for handheld TARU footage was returned as negative on July 15, 2020 (Board Review #09). Stationhouse Footage from the 88th Precinct, received on June 30, 2020, did not show any officers who matched § 87(2)(b) description of the subject leaving or entering the stationhouse (Board Review #10, #11). Fieldwork conducted on July 8, 2020 found that the Long Island University building at the exact incident location did not have footage and the Chinese restaurant “The Wei,” caddy-corner to the incident location, appeared

to be shut down (Board Review #12). A phone call on June 11, 2020 found that the cameras at the Junior's Cheesecake restaurant across Flatbush Avenue Extension from the incident location pointed away from the incident (Board Review #13). A phone call on July 1, 2020 found that the 7-11 near the incident did not have exterior cameras (Board Review #14). On August 25, 2020, video footage was received from the Applebee's restaurant across DeKalb Avenue from the incident location, but the footage was from the wrong date and the correct footage had already been deleted (Board Review #15).

NYPD Documents Reviewed

A search of the CTS database for black male officers in Brooklyn precincts with the numbers "2," "5," and "8" in their shields was conducted, which found 26 officers (Board Review #16, #17). All these officers' photos were either copied from past CCRB cases or requested from DAO. These officers' memo books were requested from their respective commands, none of which showed any relevant entries linking any of them to the time and location of the incident (Board Review #31-#35).

A request for any Threat, Resistance, and Injury Reports prepared involving § 87(2)(b) was returned with negative results (Board Review #18). The detail rosters from Patrol Borough Brooklyn North lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541 and the Disorder Control Unit (Board Review #19 & 38). However, few of the detailed lists from each individual command include vital information such as the exact location officers were stationed and what times they were present. On the rosters, the investigation found two black male officers with the numbers 2, 5, and 8 in their shields: Police Officer Isiah Spence of the 81st Precinct (shield 23588), and Police Officer Stanley Succes of the 77th Precinct (shield 20458). Police Officer Spence's memo book, received on February 3, 2021, showed that he ended his tour at 3:40 p.m. on May 30, 2020 and did not begin his next tour until 7:25 a.m. on May 31st (Board Review #28). Thus, the investigation determined that he was not working at the time of the incident.

The Event Summary listed EVENT #D200503027247 which appears to correspond to § 87(2)(b) 911 call to report both his and his girlfriend's incidents (Board Review #20). The EVENT stated the following: "12:45am: call from 12:04am female groped, male states he was assaulted by heavy set black officer with baton. AIDED male knocked to the floor by PD, bleeding from arm." The Resource Recap Log shows several officers from the 88th Precinct responded to the general location of the incident but none were black males with the numbers "2," "8," and "5" in their shields (Board Review #18). Neither the EVENT nor the Resource Recap Log offered details of the identity of the heavy-set black male officer mentioned. Additionally, it has been found, through this case and other protest cases, that the numbers on officers' helmets did not always correspond with their shield numbers, and therefore identification by helmet number is not always reliable.

Concurrent Investigations

The investigation is not aware of any concurrent investigations by outside agencies.

Ranking Officers

The lack of useful BWC footage from any command (or footage in general) and the sudden, unplanned nature of protest assignments make the task of identifying the highest-ranking officers at the protest extremely difficult. Nonetheless, one of the highest-ranking officers present was

Lieutenant Anthony Vassallo of the 88th Precinct, as confirmed in his interview (Board Review #21, #22). Lieutenant Vassallo stated that he did not know who the highest-ranking officer at the protest was because there were so many officers and many supervisors.

Officers Interviewed

Police Officer Aaron Husbands of the 79th Precinct was interviewed for related case #202003881 and stated that he did not recognize the individual in a photo of § 87(2)(b) and did not see anyone who looked like him at the protest (Board Review #24, #25). Lieutenant Vassallo of the 88th Precinct, who was interviewed on January 21, 2021, likewise did not recognize § 87(2)(b) nor did he witness his interaction with the subject officer (Board Review #21, #22). Police Officer Succes, who was interviewed on February 24, 2021, did not remember the incident, did not recognize § 87(2)(b) from his photograph, and denied taking any of the actions or making any of the statements alleged (Board Review #36, 37).

Allegation Recitation and Disposition

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) based upon race.

Allegation (D) Force: An officer struck § 87(2)(b) with a baton.

Allegation (E) Force: An officer used physical force against § 87(2)(b)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #26).

Mediation, Civil and Criminal Histories

- This complaint was not eligible for mediation given that it occurred during the 2020 Police Brutality Protests.
- As of January 27, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review #27).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review #29).

Squad No.: 2

Investigator: Esme Trontz Inv. Esme Trontz 03/04/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 3/4/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date